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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,741	04/09/2004	Werner Stuffle	SCH-00086	2454
7590 06/08/2009 Warn, Burgess & Hoffmann, P.C. P.O. Box 70098 Rochester Hills, MI 48307			EXAMINER CARTER, WILLIAM JOSEPH	
			ART UNIT 2875	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: WERNER STUFFLE, ANDREAS HEIM and JOACHIM
KLEINE

Appeal No. 2008-005617
Application 10/821,741
Technology Center 2800

Mailed: June 5, 2009

Before DALE M. SHAW *Chief Appeals Administrator*
SHAW, *Chief Appeals Administrator*.

ORDER REMANDING TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on July 29, 2008. Upon review of the application, it has been determined that a remand to Examiner, via the Office of the Director of the Technology Center, is necessary to consider the following issues and to take necessary corrective action.

EXAMINER'S CONSIDERATION OF REPLY BRIEF

A Reply Brief was filed on January 22, 2007, in response to the Examiner's Answer mailed November 22, 2006.

Title 37, Code of Federal Regulations, §41.43 states:

(a)(1)... the primary examiner must acknowledge receipt and entry of the reply brief. In addition, the primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner's answer responding to any new issue raised in the reply brief.

The Communication mailed June 21, 2007, was an improper acknowledgment of the Reply Brief, as it constitutes a Supplemental Examiner's Answer as per MPEP§ 1208, part II. A Supplemental Examiner's Answers requires a Director or designees approval.

CONCLUSION

Accordingly, it is

ORDERED that this application be returned to the Examiner to:

- 1) vacate the Communication mailed June 21, 2007;
- 2) generate and mail either:
 - a) a revised Communication properly acknowledging to the Reply Brief dated January 22, 2007 in accordance with MPEP§ 1208, part II;
- OR
- b) issue a Supplemental Examiner's Answer with the required signature (Technology Center Director or designee), if appropriate, and;
- 3) for such further action as may be appropriate.

Appeal No. 2008-005617
Application No. 10/821,741

If there are any questions pertaining to this Order, please contact the
Board of Patent Appeals and Interferences at 571-272-9797.

DMS/nhl

Warn, Burgess & Hoffmann, P.C.
P.O. Box 70098
Rochester Hills MI 48307